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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 MATTHEW J. KING,

Case No. 3:19-cv-00109-LRH-WGC

10 Petitioner,

11 v.

ORDER

12 WILLIAM GITTERE,¹ et al.,

13 Respondents.
14

15 Petitioner has submitted a pleading entitled "Writ of Habeas Corpus Personal
16 Restraint Petition" and a motion for appointment of counsel. ECF No. 1.

17 The matter has not been properly commenced because petitioner has neither
18 paid a filing fee for a habeas proceeding (\$5.00) nor filed an application to proceed *in*
19 *forma pauperis*. See 28 U.S.C. § 1915(a)(1). In addition, under 28 U.S.C. § 1915(a)(2)
20 and Local Rule LSR1-2, a petitioner must attach to his motion to proceed *in forma*
21 *pauperis* both an inmate account statement for the past six months and a properly
22 executed financial certificate.²

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25 ¹ William Gittere, warden of Ely State Prison, is substituted for Timothy Filson, former warden. See Fed. R. Civ. P. 25(d).

26 ² Petitioner submitted, with his petition, a notice indicating that he could provide a financial certificate in
27 approximately three weeks. ECF No. 1-3. The three week period elapsed several weeks ago but the court has yet to
28 receive the certificate.

1 Because petitioner has not met these requirements, this action will be dismissed
2 without prejudice to the filing of a new petition in a new action with a pauper application
3 on the proper form with all required attachments.

4 IT THEREFORE IS ORDERED that this action is DISMISSED without prejudice
5 to the filing of a new petition in a new action with a properly completed pauper
6 application.

7 IT FURTHER IS ORDERED that a certificate of appealability is DENIED, as
8 jurists of reason would not find the court's dismissal of this improperly commenced
9 action without prejudice to be debatable or incorrect.

10 IT FURTHER IS ORDERED that the Clerk shall send petitioner two copies each
11 of an application form to proceed *in forma pauperis* for incarcerated persons and a
12 noncapital Section 2254 habeas petition form, one copy of the instructions for each
13 form, and a copy of the papers that he submitted in this action.

14 IT FURTHER IS ORDERED that the Clerk of Court shall enter judgment
15 accordingly and close this case.

16 DATED this 15 day of April, 2019.

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19 LARRY R. HICKS
20 UNITED STATES DISTRICT JUDGE
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